

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ELSEBETH BAUMGARTNER,)	CASE NO. 3:10CV678
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
LaSHAUN EPPINGER, Warden,)	
)	
Respondent.)	

Before the Court is the Report and Recommendation of Magistrate Judge Kenneth S. McHargh (“R & R”) (Doc. # 43), which recommends that Petitioner Elsebeth Baumgartner’s 28 U.S.C. § 2254 petition for writ of habeas corpus (**Doc. # 1**) be denied.

Under 28 U.S.C. § 636(b)(1)(C), a habeas petitioner has 14 days after being served a copy of the R&R to file written objections. A copy of the R&R was mailed to Petitioner on May 9, 2012. Petitioner received the R&R two days later, on May 11. But Petitioner requested—and the Court granted—an extension of time until June 12 to file objections. It is now June 20, a full week having passed since the extended deadline, and the Court has yet to receive any written objection.

The failure to timely file written objections to a Magistrate Judge’s R&R constitutes a waiver of the right to obtain a de novo review of the R&R in the district court. Id.; United States v. Walters, 638 F.2d 947, 949 (6th Cir. 1981). The failure to file written objections also results in a waiver of the right to appeal. Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), aff’d, 474 U.S.

140 (1985).

The Court has reviewed the Magistrate Judge's thorough and well-written R & R. The Court agrees with the Magistrate Judge that Petitioner's claims should be denied. Accordingly, the Court **ADOPTS** the Magistrate Judge's R&R (**Doc. # 43**) and **DENIES** the petition for writ of habeas corpus (**Doc. # 1**).

IT IS SO ORDERED.

/s/ Dan Aaron Polster June 20, 2012

Dan Aaron Polster
United States District Judge

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ELSEBETH BAUMGARTNER,)	CASE NO. 3:10CV678
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>JUDGMENT ENTRY</u>
)	
LaSHAUN EPPINGER, Warden,)	
)	
Respondent.)	

For the reasons stated in the Memorandum of Opinion and Order filed contemporaneously with this Judgment Entry, and pursuant to Federal Rule of Civil Procedure 58, it is hereby ORDERED, ADJUDGED, AND DECREED that the above-captioned case is hereby terminated and dismissed as final.

Furthermore, pursuant to 28 U.S.C. §2253(c) and Fed. R. App. P. 22(b), there is no basis upon which to issue a certificate of appealability. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/ Dan Aaron Polster June 20, 2012
Dan Aaron Polster
United States District Judge